

AMENDED IN ASSEMBLY SEPTEMBER 2, 2005

AMENDED IN ASSEMBLY JUNE 14, 2005

**SENATE BILL**

**No. 69**

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**Introduced by Committee on Budget and Fiscal Review**

January 14, 2005

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~~An act relating to the Budget Act of 2005. An act to amend Sections 711.4, 8043, 8053, and 15003 of, and to add Sections 7716 and 7718 to, the Fish and Game Code, and to amend Section 42889 of the Public Resources Code, relating to environmental quality, and making an appropriation therefor.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 69, as amended, Committee on Budget and Fiscal Review.  
~~Budget Act of 2005. Environmental Quality.~~

(1) Existing law requires the Department of Fish and Game to collect filing fees for departmental actions relating to projects subject to the California Environmental Quality Act. Existing law requires the department to review the filing fees annually and to recommend adjustments in the fees to the Legislature in an amount necessary to pay the full costs of department programs, as specified.

This bill would modify the adjustment of filing fees by requiring the department to adjust the filing fees annually pursuant to a specified existing formula for the adjustment of fees for licenses, stamps, permits, and tags issued by the department.

(2) Existing law excuses the payment of a filing fee by a proponent of a proposed project if the lead or certified regulatory program agency finds that the project meets specified conditions.

This bill would require the department's concurrence with the lead or certified regulatory program finding that a proposed project meets

*specified conditions, before the proponent of a proposed project is excused from the payment of a filing fee.*

*The bill would require the department to charge a fee for each filing, in an amount not to exceed the actual handling costs for all projects, unless excused because the lead or certified regulatory program agency finds, and the department concurs, that the project meets specified conditions. The bill would require the department to propose an alternative fee schedule on or before March 1, 2006, for adoption by the Legislature. The department would be required, in its proposal for a revised fee schedule, to reasonably categorize projects subject to its review and determine a fee for each category so that total revenues collected to annually cover the costs of the department in reviewing the projects. The fee schedule developed by the department, upon adoption by the Legislature, would replace the fees required for specified projects.*

*(3) Existing law requires county clerks and the Office of Planning and Research to maintain records of environmental documents, as specified, and to remit filing fees to the department. County clerks are authorized to charge a documentary handling fee of \$25 for filings, as specified.*

*This bill would instead limit the amount that county clerks are authorized to charge for filings, as specified, to an amount not to exceed actual handling costs.*

*(4) Existing law regulating commercial fishing imposes, or authorizes the imposition of, various license, permit, and registration fees. Existing law requires specified persons to pay landing taxes quarterly, based on a rate schedule applicable to specified aquatic species.*

*This bill would require the department, not later than January 1, 2007, to prepare and submit to the Legislature a proposed plan to change the imposition of landing taxes as required by existing law to a uniform ad valorem rate applied to all species of fish landed in this state.*

*The bill would require the department to periodically review and either revise, or recommend revisions of, commercial fishing license fees, permit fees, and registration fees, for the purpose of ensuring that fees are collected, to the extent practicable, in an amount equal to the department's costs associated with the issuance of licenses, permits, and registrations and the oversight of the permitted activities.*

*The bill would require a report to be submitted with the quarterly landing tax payment reporting the total number of pounds of each species of fish delivered or landed, the average price per pound paid or received for fish landed, and the amount of tax due for each species of fish.*

*(5) Existing law authorizes the department to assess a fee on persons growing aquaculture products on public lands and in public waters based on the price per pound of the products sold, set at amounts necessary to defray certain costs of the Fish and Game Commission and the department, subject to a specified cap. The fees required to be paid monthly, as prescribed.*

*This bill would, instead, require the fee to be set for each species at the same rate for that species as specified in the rate schedule described above, and would require the fee to be paid quarterly. The bill would require the fee to be subject to the same reporting requirement imposed on landing taxes as described above.*

*(6) Existing law imposes a California tire fee on every person who purchases a new tire, the revenue from which is used for prescribed purposes related to the disposal and use of used tires. Under existing law, the tire fee is \$1.75 per tire on and after January 1, 2005, and, commencing January 1, 2007, is reduced to \$1.50 thereafter. Existing law requires that, commencing January 1, 2005, and until December 31, 2006, of the revenues generated by the imposition of the fee, an amount equal to 75¢ per tire on which the fee is imposed be deposited in the Air Pollution Control Fund for use by the State Air Resources Board and the air pollution control districts and air quality management districts to fund programs and projects that mitigate or remediate air pollution caused by tires in the state, to the extent that the state board or an applicable district determines that the program or project mitigates or remediates air pollution harms created by tires upon which the California tire fee is imposed. Existing law decreases the amount to be deposited in the Air Pollution Control Fund, commencing January 1, 2007, to an amount equal to 50¢ per tire on which the fee is imposed and requires the remaining revenues resulting from the imposition of the tire fee to be deposited in the California Tire Recycling Management Fund for use to fund the existing waste tire program.*

*This bill would modify those provisions to require that, commencing January 1, 2005, of the revenues generated by the imposition of the fee, an amount equal to 75¢ per tire on which the fee is imposed be*

deposited in the Air Pollution Control Fund for use by the state board and the districts to fund programs and projects that mitigate or remediate air pollution caused by tires in the state. The bill would correspondingly delete the provision decreasing the amount to be deposited in the Air Pollution Control Fund, commencing January 1, 2007, to an amount equal to 50¢ per tire, as provided.

(7) Under existing law, the State Water Resources Control Board and the California regional water quality control boards prescribe waste discharge requirements for the discharge of waste in accordance with the federal national pollutant discharge elimination system (NPDES) permit program established by the Clean Water Act and the Porter-Cologne Water Quality Control Act. Existing law establishes the Waste Discharge Permit Fund and, upon appropriation, authorizes the use of the moneys in the fund to carry out the act.

This bill would require the Controller to identify fee revenue in the fund and would appropriate \$4,500,000 of that fee revenue to the state board to carry out the NPDES permit program in accordance with the act.

~~This bill would express the intent of the Legislature to make statutory changes relating to the Budget Act of 2005.~~

Vote: majority. Appropriation: ~~no~~-yes. Fiscal committee: ~~no~~ yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. (a) The Controller shall identify the fee revenue  
2     in the Waste Discharge Permit Fund established by Section  
3     13260 of the Water Code, and of those moneys, the sum of four  
4     million five hundred thousand dollars (\$4,500,000) is hereby  
5     appropriated to the State Water Resources Control Board to  
6     carry out the national pollutant discharge elimination system  
7     (NPDES) permit program in accordance with Division 7  
8     (commencing with Section 13000) of the Water Code.

9     (b) Nothing in this act shall result in an increase in fees paid  
10    by waste dischargers into the Water Discharge Permit Fund over  
11    the amount paid by waste dischargers during the 2004-05 fiscal  
12    year.

13    SEC. 2. Section 711.4 of the Fish and Game Code is amended  
14    to read:

711.4. (a) The department shall impose and collect a filing fee in the amount prescribed in subdivision (d) to defray the costs of managing and protecting fish and wildlife trust resources, including, but not limited to, consulting with other public agencies, reviewing environmental documents, recommending mitigation measures, developing monitoring requirements for purposes of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code), consulting pursuant to Section 21104.2 of the Public Resources Code, and other activities protecting those trust resources identified in the review pursuant to the California Environmental Quality Act.

(b) The filing fees shall be proportional to the cost incurred by the department ~~and shall be annually reviewed and adjustments recommended to the Legislature in an amount necessary to pay the full costs of department programs as specified.~~ *The department shall adjust the fees annually pursuant to Section 713.*

(c) (1) All project applicants and public agencies subject to the California Environmental Quality Act shall pay a filing fee for each proposed project.

(2) Notwithstanding paragraph (1), no filing fee shall be paid pursuant to this section if the lead or certified regulatory program agency finds, *and the department concurs*, that the project is either of the following:

(A) Categorically *or statutorily* exempt from the California Environmental Quality Act *or a certified regulatory program*.

(B) De minimis in its effect on fish and wildlife.

(3) Notwithstanding paragraph (1), no filing fee shall be paid pursuant to this section if all the following conditions exist:

(A) The project is being undertaken by the department.

(B) The project costs are payable from any of the following sources:

(i) The Public Resources Account in the Cigarette and Tobacco Products Surtax Fund.

(ii) The California Wildlife, Coastal, and Park Land Conservation Fund of 1988.

(iii) The Habitat Conservation Fund.

(iv) The Fisheries Restoration Account in the Fish and Game Preservation Fund.

(v) The Commercial Salmon Stamp Account in the Fish and Game Preservation Fund.

(vi) Striped bass stamp funds collected pursuant to Section 7360.

(C) The project is implemented through a contract with either a nonprofit entity or a local government agency. ~~The filing fee shall be paid at the time and in the amount specified in subdivision (d). Notwithstanding~~

*(4) The filing fee shall be paid at the time and in the amount specified in subdivision (d). Notwithstanding Sections 21080.5 and 21081 of the Public Resources Code, no project shall be operative, vested, or final until the filing fees required pursuant to this section are paid.*

(d) The fees shall be in the following amounts:

~~(1) For a project which is found by the lead or certified regulatory agency to be de minimis in its effect on fish and wildlife, no filing fee shall be paid, whether or not a negative declaration or an environmental impact report is prepared pursuant to the California Environmental Quality Act. The department shall charge a fee for each filing, in an amount not to exceed the actual handling costs for each project, except as provided in paragraph (2) of subdivision (c).~~

~~(2) For a project which is statutorily or categorically exempt from the California Environmental Quality Act, including those certified regulatory programs which incorporate statutory and categorical exemptions, no filing fee shall be paid.~~

~~(3)~~

(2) For a project for which a negative declaration is prepared pursuant to subdivision (c) of Section 21080 of the Public Resources Code, the filing fee is one thousand two hundred fifty dollars (\$1,250). The filing fee shall be paid to the county clerk at the time of filing a notice of determination pursuant to Section 21152 of that code or to the Office of Planning and Research at the time of filing a notice of determination pursuant to Section 21108 of that code, as appropriate.

~~(4)~~

(3) For a project with an environmental impact report prepared pursuant to the California Environmental Quality Act, the filing fee is eight hundred fifty dollars (\$850). The filing fee shall be paid to the county clerk at the time of filing a notice of

determination pursuant to Section 21152 of the Public Resources Code or to the Office of Planning and Research at the time of filing a notice of determination pursuant to Section 21108 of that code.

(5)

(4) For a project which is subject to a certified regulatory program pursuant to Section 21080.5 of the Public Resources Code, the filing fee is eight hundred fifty dollars (\$850). The filing fee shall be paid to the Secretary of the Resources Agency upon filing of the notice of determination pursuant to Section 21080.5 of that code. If the filing fee is to be paid by the state lead agency, the payment shall be made pursuant to a memorandum of understanding with the department.

(e) The county clerk may charge a ~~documentary document~~ handling fee of ~~twenty-five dollars (\$25) per filing for each filing, in an amount not to exceed the actual handling costs,~~ in addition to the filing fee specified in subdivision (d).

(1) The county clerk of each county and the Office of Planning and Research shall maintain a record of all environmental documents received. The record shall include, for each environmental document received, the name of each applicant or lead agency, the document filing number, and the filing date. The record shall be made available for examination or audit by authorized personnel of the department during normal business hours.

(2) The filing fee imposed and collected pursuant to subdivision (d) shall be remitted monthly to the department within 30 days after the end of each month. The amount of fees due shall be reported on forms prescribed and provided by the department.

(3) The department shall assess a penalty of 10 percent of the amount of fees due for any failure to remit the amount payable when due. The department may pursue collection of delinquent fees through the Controller's office pursuant to Section 12419.5 of the Government Code.

(f) Notwithstanding Section 12000, failure to pay the fee under subdivision (d) is not a misdemeanor. All unpaid fees are a statutory assessment subject to collection under procedures as provided in the Revenue and Taxation Code.

(g) Only one filing fee shall be paid for each project unless the project is tiered or phased, and separate environmental documents or review by the department is required.

(h) This section does not preclude or modify the duty of the department to recommend, require, permit, or engage in mitigation activities pursuant to the California Environmental Quality Act.

(i) The permit process of the California Coastal Commission, as certified by the Secretary of the Resources Agency, is exempt from the payment of the filing fees prescribed by paragraph ~~(5)~~ (4) of subdivision (d) insofar as the permits are issued under any of the following regulations:

(1) Subchapter 4 (commencing with Section 13136) of Chapter 5 of Division 5.5 of Title 14 of the California Code of Regulations.

(2) Subchapter 1 (commencing with Section 13200), Subchapter 3 (commencing with Section 13213), Subchapter 3.5 (commencing with Section 13214), Subchapter 4 (commencing with Section 13215), Subchapter 4.5 (commencing with Section 13238), Subchapter 5 (commencing with Section 13240), Subchapter 6 (commencing with Section 13250), and Subchapter 8 (commencing with Section 13255) of Chapter 6 of Division 5.5 of Title 14 of the California Code of Regulations.

(j) *The fees set forth in paragraphs (2), (3), and (4) of subdivision (d) shall remain in effect until the Legislature adopts an alternative fee schedule. On or before March 1, 2006, the department shall propose to the Legislature revisions to the fee schedule that reasonably categorize the projects that are subject to its review and determine a fee for each category so that the total revenues collected annually cover the department's full costs as specified in subdivision (a).*

SEC. 3. Section 7716 is added to the Fish and Game Code, to read:

7716. Not later than January 1, 2007, the department shall prepare and submit to the Legislature a proposed plan to change the imposition of landing taxes as required by Section 8041 to a uniform ad valorem rate applied to all species of fish landed in this state. The plan shall include all of the following elements:

(a) A recommended ad valorem rate that generates the same level of total tax revenue as the current tax rate schedule.



1     **(b) Mechanisms necessary to administer the tax rate.**

2     **(c) A process to waive a portion of the landing taxes for any**  
3 **fish species if the specific fishing industry is undertaking, or is**  
4 **contributing to, a department-approved research or data**  
5 **collection program in support of the development or**  
6 **implementation of a fishery management plan for that species.**

7     **(d) A funding recommendation that directs landing tax**  
8 **revenue to the fishery management responsibilities of the**  
9 **department.**

10    **SEC. 4. Section 7718 is added to the Fish and Game Code, to**  
11 **read:**

12       **7718. The department shall periodically review and either**  
13 **revise, or recommend revisions of, license fees, permit fees, and**  
14 **registration fees authorized by or imposed pursuant to this part.**  
15 **The purpose of the department's review is to ensure that license,**  
16 **permit, and registration fees collect, to the extent practicable, an**  
17 **amount equal to the department's costs associated with its**  
18 **issuance of licenses, permits, and registrations and to its**  
19 **oversight of permitted activities.**

20    **SEC. 5. Section 8043 of the Fish and Game Code is amended**  
21 **to read:**

22       **8043. (a) Every commercial fisherman who sells or delivers**  
23 **fish that he or she has taken to any person who is not licensed**  
24 **under Article 7 (commencing with Section 8030), and every**  
25 **person who is required to be licensed under Article 7**  
26 **(commencing with Section 8030) to conduct the activities of a**  
27 **fish receiver, as described in Section 8033, shall make a legible**  
28 **landing receipt record on a form to be furnished by the**  
29 **department. The landing receipt shall be completed at the time of**  
30 **the receipt, purchase, or transfer of fish, whichever occurs first.**

31       **(b) The landing receipt shall show all of the following:**

32       **(1) The accurate weight of the species of fish received, as**  
33 **designated pursuant to Section 8045. Sablefish may be reported**  
34 **in dressed weight, and if so reported, shall have the round**  
35 **weights computed, for purposes of management quotas, by**  
36 **multiplying 1.6 times the reported dressed weight.**

37       **(2) The name of the fisherman and the fisherman's**  
38 **identification number.**

39       **(3) The department registration number of the boat.**

1 (4) The recipient's name and identification number, if  
2 applicable.

3 (5) The date of receipt.

4 (6) The price paid *or a best estimate of the price to be paid.*

5 (7) The department origin block number where the fish were  
6 caught.

7 (8) The type of gear used.

8 (9) Any other information the department may prescribe.

9 (c) The numbered landing receipt forms in each individual  
10 landing receipt book shall be completed sequentially. A voided  
11 fish landing receipt shall have the word "VOID" plainly and  
12 noticeably written on the face of the receipt. A voided fish  
13 landing receipt shall be submitted to the department in the same  
14 manner as a completed fish landing receipt is submitted to the  
15 department. A fish receiver who is no longer conducting business  
16 as a licensed receiver shall forward all unused landing receipts  
17 and landing receipt books to the department immediately upon  
18 terminating his or her business activity.

19 *SEC. 6. Section 8053 of the Fish and Game Code is amended*  
20 *to read:*

21 8053. (a) Landing taxes imposed by this article shall be paid  
22 quarterly to the department within 30 days after the close of each  
23 quarter. *A report shall be submitted along with the tax payment*  
24 *reporting the total number of pounds of each species of fish*  
25 *delivered or landed, the average price per pound paid or*  
26 *received for fish landed, and the amount of tax due for each*  
27 *species of fish.*

28 ~~ff~~

29 (b) *If any landing tax is not paid within 30 days after the close*  
30 *of the quarter for which it is due, the department shall collect*  
31 *amounts owing under the procedures prescribed for sales and use*  
32 *taxes provided in Chapter 5 (commencing with Section 6451)*  
33 *and Chapter 6 (commencing with Section 6701) of Part 1 of*  
34 *Division 2 of the Revenue and Taxation Code, insofar as they*  
35 *may be applicable, and for those purposes, "board" means the*  
36 *department and "the date on which the tax became due and*  
37 *payable" means that date 30 days after the close of the quarter for*  
38 *which it is due.*

39 *SEC. 7. Section 15003 of the Fish and Game Code is amended*  
40 *to read:*

15003. (a) The department ~~may~~ *shall* assess a fee on persons growing aquaculture products on public lands and in public waters based on the price per pound of the products sold. ~~The fees, if imposed, shall be set at amounts necessary to defray the costs of the commission and the department in administering this division. However, the fees if any, may not exceed the tax rates as provided in Section 8051.~~ *The fee shall be set for each species at the same rate for that species as determined pursuant to Section 8042.*

(b) The price per pound for these ~~taxation~~ *fee* purposes shall be based on the whole product weight or its equivalent as taken by the lessee.

(c) ~~The privilege tax fee imposed by this section shall be paid monthly to the department within 30 days after the close of each month quarterly and be subject to the reporting requirements imposed in Section 8053. If the fee is not paid within 60 days after the close of the month in which it is due of the due date, a 10 percent penalty shall be paid.~~

*SEC. 8. Section 42889 of the Public Resources Code, as amended by Section 14 of Chapter 707 of the Statutes of 2004, is amended to read:*

42889. (a) ~~(1) Commencing January 1, 2005, and until December 31, 2006, of the moneys collected pursuant to Section 42885, an amount equal to seventy-five cents (\$0.75) per tire on which the fee is imposed shall be transferred by the State Board of Equalization to the Air Pollution Control Fund. The state board shall expend those moneys, or allocate those moneys to the districts for expenditure, to fund programs and projects that mitigate or remediate air pollution caused by tires in the state, to the extent that the state board or the applicable district determines that the program or project remediates air pollution harms created by tires upon which the fee described in Section 42885 is imposed.~~

~~(2) Commencing January 1, 2007, of the moneys collected pursuant to Section 42885, an amount equal to fifty cents (\$0.50) per tire on which the fee is imposed shall be transferred by the State Board of Equalization to the Air Pollution Control Fund for expenditure by the state board as described in paragraph (1).~~

(b) The remaining moneys collected pursuant to Section 42885 shall be used to fund the waste tire program, and shall be

1 appropriated to the board in the annual Budget Act in a manner  
2 consistent with the five-year plan adopted and updated by the  
3 board. These moneys shall be expended for the payment of  
4 refunds under this chapter and for the following purposes:

5 (1) To pay the administrative overhead cost of this chapter, not  
6 to exceed 6 percent of the total revenue deposited in the fund  
7 annually, or an amount otherwise specified in the annual Budget  
8 Act.

9 (2) To pay the costs of administration associated with  
10 collection, making refunds, and auditing revenues in the fund,  
11 not to exceed 3 percent of the total revenue deposited in the fund,  
12 as provided in subdivision (b) of Section 42885.

13 (3) To pay the costs associated with operating the tire  
14 recycling program specified in Article 3 (commencing with  
15 Section 42870).

16 (4) To pay the costs associated with the development and  
17 enforcement of regulations relating to the storage of waste tires  
18 and used tires. The board shall consider designating a city,  
19 county, or city and county as the enforcement authority of  
20 regulations relating to the storage of waste tires and used tires, as  
21 provided in subdivision (c) of Section 42850. If the board  
22 designates a local entity for that purpose, the board shall provide  
23 sufficient, stable, and noncompetitive funding to that entity for  
24 that purpose, based on available resources, as provided in the  
25 five-year plan adopted and updated as provided in subdivision (a)  
26 of Section 42855.5. The board may consider and create, as  
27 appropriate, financial incentives for citizens who report the  
28 illegal hauling or disposal of waste tires as a means of enhancing  
29 local and statewide waste tire and used tire enforcement  
30 programs.

31 (5) To pay the costs of cleanup, abatement, removal, or other  
32 remedial action related to waste tire stockpiles throughout the  
33 state, including all approved costs incurred by other public  
34 agencies involved in these activities by contract with the board.  
35 Not less than six million five hundred thousand dollars  
36 (\$6,500,000) shall be expended by the board during each of the  
37 following fiscal years for this purpose: ~~2001-02~~ 2001-02 to  
38 ~~2006-07~~ 2006-07, inclusive.

1 (6) To make studies and conduct research directed at  
2 promoting and developing alternatives to the landfill disposal of  
3 waste tires.

4 (7) To assist in developing markets and new technologies for  
5 used tires and waste tires. The board's expenditure of funds for  
6 purposes of this subdivision shall reflect the priorities for waste  
7 management practices specified in subdivision (a) of Section  
8 40051.

9 (8) To pay the costs associated with implementing and  
10 operating a waste tire and used tire hauler program and manifest  
11 system pursuant to Chapter 19 (commencing with Section  
12 42950).

13 (9) To pay the costs to create and maintain an emergency  
14 reserve, which shall not exceed one million dollars (\$1,000,000).

15 (10) To pay the costs of cleanup, abatement, or other remedial  
16 action related to the disposal of waste tires in implementing and  
17 operating the Farm and Ranch Solid Waste Cleanup and  
18 Abatement Grant Program established pursuant to Chapter 2.5  
19 (commencing with Section 48100) of Part 7.

20 (c) This section shall remain in effect only until January 1,  
21 2015, and as of that date is repealed, unless a later enacted  
22 statute, that is enacted before January 1, 2015, deletes or extends  
23 that date.

24 ~~SECTION 1. It is the intent of the Legislature to make~~  
25 ~~statutory changes relating to the Budget Act of 2005.~~